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**CRUISE***Where did the hockey millions go?*BY **KATIE BENNER**

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FORTUNE — It was a lawsuit with all the elements tabloids love: Sex. Money. Star athletes. Betrayal. Fraud.

Sure enough, when 19 current and former National Hockey League players, all of them clients of a money manager named Phil Kenner, brought a fraud suit in June 2009, the newspapers pounced. The suit claimed they had sunk \$25 million into two developments in Mexico — golf courses, condos and hotels — being put together by a real estate investor named Ken Jowdy. Instead of building, the suit charged, Jowdy had blown the money on “porn stars, escorts, strippers, party girls” to entertain a retired baseball star. The plaintiffs included hockey players such as Sergei Gonchar, Bryan Berard, and Michael Peca.

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Still, the row piqued the interest of the U.S. Attorney's office in New York City. Lehman Brothers had financed one of the Mexico golf developments before tumbling into bankruptcy. The suit alleged that a Lehman loan officer had a secret interest in the project. The Federal Bureau of Investigation began investigating.



Phil
Kenner

As the months dragged on, though, the probe took a surprising turn. The FBI began to examine whether the lawsuit against Jowdy was an attempt to divert attention from the possibility that Kenner, 44, had defrauded his clients. Today, four years after the original lawsuit, the Bureau is continuing its investigation into Kenner, according to seven people with knowledge of the inquiry. (An FBI spokesperson declined to comment.)

Many of Kenner's clients have turned against him. They have alleged in lawsuits and an arbitration that he used money from them and from partners to gain control of real estate and other ventures without putting down money of his own. When those deals failed, as they did more often than not, the clients contend, Kenner emerged unscathed. Clients say some of their money also disappeared into a web of shell companies owned by Kenner. Millions of dollars were allegedly lost. That's the picture revealed by the civil suits, along with interviews with more than a dozen of Kenner's former business partners, ex-clients, and bankers who worked with him. Kenner adamantly insists he has done nothing wrong. All the suits against him were settled. In the arbitration, the one case in which findings were made, arbitrators concluded that Kenner made unauthorized investments of a client's funds, but they found no fraud.

For anyone who follows Wall Street or the lives of the rich and famous, the claims of professional athletes who lose large sums of money under murky circumstances involving their own agents or managers will have a familiar ring. Online broker Success Trade Securities was recently accused by regulators of fraudulently selling promissory notes to clients including Detroit Pistons guard Brandon Knight and Miami Dolphins defensive lineman Jared Odrick. (The company "denies the allegations and is preparing a defense," says its lawyer William Saacke.) Hall of Fame quarterback John Elway's investment advisor admitted in 2010 to perpetrating a \$71 million fraud.

Players are prime targets, since they are usually young and inexperienced when they strike it rich. That's particularly true of hockey players, who are often drafted out of high school, ensuring they have little or no real world experience before they go pro. Kenner is a comparatively small-time figure. But the renown of his clients made him stand out from the legions of other alleged scammers, as did his baroque accusations of criminal activity at Lehman, claims that ironically led the FBI to Kenner's door.

* * *

I first met Phil Kenner in March 2012. We had scheduled an interview at the Four Seasons Hotel in Scottsdale, Ariz., not far from where he lives. He had told me before I arrived that he had a dramatic true-crime story to tell that would clear his name. But

Kenner didn't turn up at the Four Seasons. Instead a man named Johnel Turner, who said he was Kenner's bodyguard, appeared. "Phil doesn't feel safe here," he said, glancing around the elegant lobby. "Phil could be attacked." Turner instructed me to come with him. When I hesitated, he said, "Do you want to come with me and hear the truth, or not?"

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I followed him into the hot Arizona sun. Some miles away, at Greasewood Flat, a Western-themed bar that has appeared in episodes of *Bonanza* and the movie *Raising Arizona*, Turner and I found Kenner waiting in a mostly deserted gravel yard. He sat at a shaded picnic table listening to country music playing on a radio. The enclosure was surrounded by pens filled with chickens, the air pungent. Just behind Kenner, an ass brayed.

Kenner did not resemble a standard-issue financial advisor. He wore camouflage cargo shorts, a blue long-sleeve T-shirt, and Birkenstocks. He had accessorized with nylon necklaces and bracelets made from shoelaces. With scraggly bleach-blond curls, he looked like an aging surfer. When Turner handed me a bottle of water, Kenner said, "Make sure the seal breaks," then emitted a strangled, barking laugh.

"I'm the victim," Kenner began. He recited details from the Jowdy lawsuit, ignoring the fact that the plaintiffs had dropped it, and added a couple of intriguing new twists to an account already full of them. He claimed that a Lehman loan officer had embezzled from one of the Mexico developments (a claim the loan officer denies and for which Kenner provided not a scintilla of evidence). He said he was writing a tell-all book.

Kenner explained that he had a falling out with Tommy Constantine, an ex-race car driver, convicted drug dealer, and owner of a prepaid credit card business called Eufora who worked with Kenner on several ventures. Kenner claimed Constantine's own investors sued him in 2010 for fraud. Kenner said he had hired the bodyguard for fear his former friend would harm him. He predicted he was about to wrest legal control of Diamanté, Jowdy's golf property in Cabo. The long-awaited payday, he said, was at hand.

Kenner's story was colorful, but key pieces didn't hold up. Danske Bank, which inherited the loan on Diamanté after Lehman collapsed, said that Jowdy and the project were subject to a rigorous inspection. "If there had been mismanagement, I think it would have turned up in the due diligence we've conducted on the project over the past three years," Peter Hughes, a Danske manager, told *Fortune* in 2012. "We

found no evidence that Jowdy was stealing money, and we're satisfied with the job he's doing." (For his part, Jowdy denies any wrongdoing.)

Constantine's lawyer, white-collar specialist Ed Little, notes that the 2010 suit against his client was dismissed. Kenner is in no danger from Constantine, according to Little. Just the opposite, the lawyer says: Constantine got a restraining order against Kenner and has been a cooperating witness in the government's probe of Kenner.

Kenner continued in a similar vein for nearly four hours. He said he still invests in stocks, bonds, and real estate but couldn't articulate an investing strategy beyond "wanting to help people." He said he still has clients, but declined to say how many or how much money he manages. He promised during our talk, and later over email, to send me papers that back up his claims. More than a year later, he has yet to send a single document.

* * *

Bryan Berard is one of the toughest guys I've ever met. At 6'1" and 200 pounds, the heavily-tattooed 36-year-old defenseman has a brown mane that makes him look like a lion. He survived a calamitous injury. Berard was a young star — a first-round draft pick in 1995, Rookie of the Year in 1997, and a member of the U.S. Olympic Team in 1998. Then came disaster: He was blinded in his right eye by a stick in 2000. Despite the gravity of the injury, Berard was intent on returning to pro hockey. He underwent seven surgeries and even gave back a \$6.5 million insurance payout in order to attempt a comeback. Despite remaining largely blind in one eye, Berard went on to play for the New York Rangers and other teams before retiring from the NHL in 2008. (He played one more year in a Russian league.)



Bryan
Berard
during
his
NHL
days

Phil Kenner was part of Berard's life from his earliest days in the NHL, and hockey was the connection. Kenner grew up in Buffalo and dreamed of playing the sport. In college at Rensselaer Polytechnic Institute, he was a benchwarmer on his school's powerhouse team. The closest Kenner came to hockey greatness was being best friends and college roommates with Joe Juneau, who would play for several pro

teams. When Kenner got into finance, Juneau was one of his original clients. One of Kenner's first big jobs was at State Street Research in 1998 (acquired by BlackRock in 2004, it is not related to the much larger State Street Corporation), where his boss was Derek Sanderson, a Boston Bruins star-turned-financial advisor. When Berard was just 17, and being courted by the Ottawa Senators, he was approached by Kenner and Sanderson. Knowing little about finance, but a lot about Sanderson, he hired State Street.

By the time Kenner moved to a firm called Assante Global Advisors in 2001, he had built a roster of hockey clients, a group Berard describes as fiercely loyal. "I thought Kenner was on my team," he says. Kenner delivered in those years: Berard says the stocks and bonds that Kenner oversaw from about 1996 to 2002 outperformed the investments he had at Merrill Lynch. Players relied on Kenner. They partied and vacationed with him. So when he started his own firm, Standard Advisors, in 2003, many followed.

* * *

When Kenner went solo, he began to alter his investing strategy. Where once he had favored straightforward stocks and bonds, he began to gravitate to speculative private companies and land deals. Many of them didn't pan out. Trouble — and litigation — ensued.

It started when Kenner sued his former office manager, Kristine Myrick, for breach of contract and defamation in 2008. He claimed that she had warned clients the year before that Kenner was making unsafe and sometimes non-existent investments. Kenner sued her for breach of contract and defamation. Myrick countersued, alleging that Kenner had sexually assaulted her. She claimed that she had felt compelled to date him to keep her job.



Joe
Juneau

Then came a second legal imbroglio. Three hockey clients, Ethan Moreau, Jozef Stumpel, and Juneau — the best man at Kenner's wedding — separately sued Kenner later in 2008, accusing him of fraud, breach of fiduciary duty, and professional negligence. Kenner denies any wrongdoing. All four cases were settled. Myrick, Moreau, Stumpel, and Juneau declined to comment.

Finally, there was a fifth action. Star forward Owen Nolan, who played for the Toronto Maple Leafs and other teams and has since retired, filed a complaint for arbitration in May 2009, accusing Kenner of breach of fiduciary duty and fraud. Nolan's brief cited a report by Arnie & Co., a forensic accounting firm he hired, which concluded that Kenner had commingled client funds. Arnie also found that money from Nolan's line of credit had gone toward Kenner's personal investments and to make interest payments on lines of credit he had opened on behalf of other clients. The firm, which has worked with the government to probe Ponzi schemes, concluded that Kenner's actions demonstrated "one of the most abusive handlings of client monies that [Arnie] has investigated."

In the end, arbitrators ruled that Nolan hadn't proven fraud or commingling of funds but concluded that Kenner breached his fiduciary duty to Nolan after he took out a \$2.2 million line of credit in Nolan's name, secured by Nolan's assets. Kenner agreed to withdraw only \$100,000 to put toward a real estate deal in Hawaii, but instead he withdrew the full \$2.2 million and invested it in additional land deals. The panel awarded Nolan \$2.2 million in damages. Collection efforts are ongoing. Kenner insists he did nothing wrong and that Nolan, like his other clients, always knew what Kenner was doing with his money.



Owen
Nolan

Kenner's remaining clients were rattled by the litigation, and some asked for their money back. Kenner explained that he had put most of their assets into Jowdy's developments in Mexico and couldn't get them back. As the players would later allege in their short-lived suit against Jowdy, Kenner convinced them that the developer had misused their money. They could sue and recover their cash, and Kenner had a plan to do just that.

* * *

In order to beat Jowdy in court, Kenner told the players he would need more money. He and Constantine conceived of a vehicle they called the Global Settlement Fund (GSF). Each player would contribute \$250,000 for legal and public relations agency fees, and the cost to settle lawsuits (including those filed by Myrick, Moreau, Stumpel, and Juneau) that could hurt their chances of defeating Jowdy, according to emails sent by Kenner. The expected outcome: The players and Kenner would gain control of one of the Mexico golf developments, sell it, and the players would get their money

back. The GSF also included a but-wait-there's-more bonus: Contributors got stakes in a prepaid credit card company, a real estate project, a Falcon 10 airplane, and condos, all controlled by Constantine. "This strategy which effectively acquires significant assets, while providing a legal remedy, is by far our best solution," Kenner emailed client Jay McKee, a former longtime defenseman for the Buffalo Sabres.

Some players wondered whether giving Kenner more money was a good idea, but one detail seemed to legitimize the GSF: The money was being deposited into an escrow account in the name of Ronald Richards, the same lawyer Kenner hired to represent the players in their lawsuit against Jowdy. (The players did not know that in 2001 a judge disqualified Richards from representing an accused drug lord, citing evidence that the lawyer tampered with a witness.) In the end, 15 players contributed more than \$4.5 million.

Today all of the money in the GSF is gone. When players emailed Richards to find out what had happened, he replied that Constantine had withdrawn from the account and he had no idea how the money had been used. Richards told *Fortune* he never controlled the fund.



Tommy
Constantine
racing
a
go-
kart
in
2008

Constantine says he has done nothing wrong. He emphasizes that he has worked hard to put the drug conviction behind him and focus on being a small business owner. He declined to discuss the GSF on the record. But in a heated conversation with Kenner at a Home Depot in Scottsdale (a conversation that Kenner recorded and which was obtained by several hockey players), it's clear that Constantine felt betrayed.

Constantine told Kenner: "I understand that you're crazy and you've got big balls; and you understand that I'm crazy and I've got big balls, so we're going to crash and everyone's going to die. You and I were in the trenches together, and now we're fighting each other and talking shit about each other?"

In the recording, Kenner coolly says he has no idea what his former colleague is talking about. His sangfroid enrages Constantine. "Do you know the shitstorm that's

going to come down on you if this thing goes to the mat?” Constantine says. “They’re not going to fucking pinch the guy who drove the getaway car, they’re going to pinch the guy that fucking robbed the bank. I know you think I robbed the bank, but I have answers for everything.”

* * *

Not long after he left to play hockey in Russia in 2009, Berard began to question Kenner’s honesty. The money manager had repeatedly asked for cash to cover Mexican litigation expenses. Berard was puzzled. He thought the lawyers were working on contingency and that the GSF had been created to cover such legal costs. Says Berard: “I struggled during those years to understand why projects I’d invested in were not even a little successful. Things felt out of control. I was angry.” He estimates he has lost at least \$3 million in his dealings with Kenner.

Unable to put his suspicions to rest, Berard began sharing his misgivings with an ex-New York City police officer name John Kaiser, who sometimes flipped houses with Kenner. Kaiser, it turned out, had been storing documents for Kenner. The two men decided to open a box — and found numerous documents they later turned over to investigators.

Berard and Kaiser began to wonder whether they could believe the accusations Kenner had made against Ken Jowdy. They decided to visit Jowdy in Mexico to see firsthand what was going on at Diamanté, which Kenner had claimed was mismanaged and struggling. They flew down to Cabo San Lucas in December 2011.

What they saw flabbergasted them: The project was real — and thriving. Jowdy had built an award-winning golf course (voted the No. 1 course in Mexico in 2012 by *Golf Digest*) and was selling condos and villas. Today, Tiger Woods is building a new course at Diamanté called El Cardonal.



The
Diamanté
development
in
Cabo
San
Lucas.

Upon returning from Mexico, Berard and Kaiser decided to call Kenner's remaining clients. Almost everyone with whom they spoke was furious or sad. Not everyone believed them, but those who did began to look through their correspondence with Kenner, searching for evidence of deception.

For his part, Kenner seems buoyant these days. I saw him again a few months ago at the Maricopa County Courthouse in Phoenix, where he is involved in a real estate dispute with Berard and Kaiser. He'd love to talk, Kenner tells me, but when he has more time. "Next time," he adds, "we don't even have to meet at a cowboy bar in the desert." Our exchange moves to email, where he ignores the question of whether he'll send me the documents that he was supposed to send a year ago.

Kenner, above all, maintains his innocence. "I didn't and still do not understand why the government was wasting resources on me," he writes. In his view other perpetrators are to blame. He says he's still trying to bring truth to light. In Kenner's telling he is a superhero, whose power is the ability to navigate international legal systems and work tirelessly for his clients. "There's a real story here," he tells me once again. "And a lot of people aren't going to like the way it ends." Perhaps. What's certain is there will be some more surprising twists and turns before we get there.

Editor's note: An earlier version of this story said that the New York Post and the New York Daily News "only glancingly mentioned Jowdy's protestations of innocence." The Daily News quoted Jowdy denying the lawsuit's allegations and then wrote subsequent stories portraying his side of the case.